



# STATE OF INDIANA

Mitchell E. Daniels, Jr.  
Governor

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## OFFICE OF MANAGEMENT & BUDGET

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Christopher A. Ruhl  
Director

October 20, 2011

Representative Bill Crawford  
House of Representatives  
200 W. Washington Street  
Indianapolis, IN 46204

Dear Representative Crawford:

I received a copy of your October 14, 2011 memorandum to members of your caucus concerning sales tax collection for online sales. In the interests of the legislature having a complete and accurate understanding of this important issue, I wanted to provide you and your members with additional data.

Our administration agrees with you that a fair and equitable system would treat all retailers similarly in all states, including Indiana. A national solution that simplifies for all businesses the varying, complicated and burdensome collection requirements imposed by thousands of independent tax collecting jurisdictions remains the optimal solution. Further, Congressional action may be the only mechanism to overturn existing U.S. Supreme Court precedent that has precluded states from mandating collection of sales tax from remote retailers.

Over the last several months, my staff has gathered and analyzed sales tax collection data. It is clear that the estimates you have cited on amounts uncollected from online sales are grossly inflated.

As you know, Indiana levies a 7% sales tax on retail sales, generating \$6.2 billion in FY 2011. The Department of Revenue, analyzing taxpayer specific data, segregated total collections by type of good. One major error in the national estimate you have seen is its failure to note that over 50% of our sales tax base consists of items that are not purchased online. Specifically:

- 22% of sales tax collections are generated annually through sales of gasoline and utility services (electric, water, telephone and gas) which are not purchased online.
- Motor vehicles are yet another significant source of sales tax revenues that are not impacted (approx. 12% of sales taxes). Regardless of where the vehicle is purchased tax is paid upon registration at the BMV if it wasn't collected by the dealer.
- Non-consumer transactions from the manufacturing and wholesale trade industries are another large category not impacted (14%).
- Food and drink purchased in restaurants is also not purchased over the Internet (5%)

Collectively, these five categories alone total 53% of sales tax revenues.

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In addition, the state already collects a significant amount of tax on online sales. The Budget Agency and Department of Revenue concluded in excess of \$180 million annually is already being collected by the state. See the enclosed Attachment 1 for specific details of this determination.

Amazon, as you mention, is the "mega titan" of online retailing. Based on our research they are the largest "non-remitter." Amazon generates revenue from many different sources. For example, e-books for the Kindle sold through Amazon's website are typically sales from the book publishers, many of which collect and remit tax. These collections are included in one of categories above. Revenue from other affiliate sales may not be taxable because the affiliate making the sale does not maintain a presence in Indiana. The best measure we could find was Amazon's North American sales, excluding affiliate revenue which totaled \$18 billion in 2010. Assuming approximately 2% for Indiana's share multiplied by the 7% tax rate equals \$25 million. (This is a worst case scenario. The Indiana share may be overstated relative to North American revenue. 2% was an estimate of Indiana's share relative to total U.S. Amazon, however, does not separately detail revenue for the U.S., Canada and Mexico. This also excludes any use tax remitted by consumers). Amazon currently collects in only five states. Indiana is by no means the "odd person out" as you state in your memorandum.

While it is impossible to ascertain the precise amount of uncollected revenue to Indiana, estimates of \$300-\$400 million per year are without a doubt wildly excessive.

If we do find a way to collect the modest amounts not currently remitted, I believe that no spending should occur until we see the actual collections in our accounts. It would be a huge mistake to spend dollars you may well not take in. The discipline we've applied over the last seven years of only spending money we actually have needs to be continued with respect to any additional amounts we find a way to collect from online retailers.

Sincerely,



Christopher A. Ruhl

Cc: Senator Luke Kenley

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Attachment 1

\$186 million in current collections consists of four primary categories:

1. Merchants who have registered through the Streamlined Sales Tax project to voluntarily collect taxes in Indiana ("SST"). Some may have Indiana nexus, others may not. In total those collections were \$38 million in 2010.
2. Out-of-state retailers who register directly with Indiana (not through SST) and collect ("OOS"). Those collections totaled \$186 million in 2010. However, a portion of those collections are sales that are not likely online sales. For example, leasing, finance and telecommunication companies are included in these totals. A more realistic figure attributable to online consumer sales from the OOS category is \$108 million.
3. Retailers who operate brick and mortar locations in Indiana while also selling products directly to consumers through their company websites. One such example is cited in the October 14, 2011 Crawford memorandum. These retailers collect and remit on all Indiana sales—both in store and online. Some retailers segregate out online sales separately but most do not and only report one aggregate total. The State Budget Agency, using U.S. Census Bureau figures on retail sales, calculated \$37 million in current collections for this category for 2010. The Census Bureau data indicates that in most retail categories (books, electronics, furniture, clothing, sporting goods, music) online sales average approximately 1% of total retail sales (2009 data).
4. Use tax remitted by Hoosier individuals on their annual income tax return. Given the magnitude of the amount collected by retailers noted in 1-3 above, this amount is quite small.

In summary, current collections:

SST retailers:	\$38 million
OOS retailers:	\$108 million
RST retailers:	\$37 million
Use tax:	\$3 million
<b>Total:</b>	<b>\$186 million <sup>1</sup></b>

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<sup>1</sup> Note this figure is different than the Section 80 certification. The language of Section 80 specifically covered "remote sellers making remote sales." To conform to the precise language in the budget bill, the Budget Agency excluded use tax, the RST category and a portion of the SST category